

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF EMPIRE STATE CARPENTERS
ANNUITY, APPRENTICESHIP, LABOR-
MANAGEMENT COOPERATION, PENSION
and WELFARE FUNDS,

Petitioner,

-against-

MEMORANDUM & ORDER
15-CV-3357 (JS) (AKT)

ONEIDAVIEW PILE DRIVING INC.,

Respondent.

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APPEARANCES

For Petitioners: Charles R. Virginia, Esq.
Nicole Marimon, Esq.
Elina Burke, Esq.
Virginia & Ambinder LLP
40 Broad Street, 7th floor
New York, NY 10004

For Respondent: No appearances.

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge A. Kathleen Tomlinson's Report and Recommendation ("R&R"), recommending that this Court confirm an arbitration award and impose judgment in favor of Petitioner and against Respondent in the amount of \$33,675.57 plus \$275 in attorneys' fees and \$440 in costs. (See R&R, Docket Entry 8, at 25.) The R&R further recommends that Plaintiff's request for pre-judgment interest be denied, without prejudice and with the right to renew the application within thirty (30) days. For the following reasons, the Court ADOPTS Judge Tomlinson's R&R in its entirety.

BACKGROUND

This action to confirm an arbitration award was commenced on June 9, 2015 by Petitioner Trustees of Empire State Carpenters Annuity, Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds ("Petitioner") against Respondent Oneidaview Pile Driving Inc. ("Respondent").

On June 9, 2015, Trustees filed its Petition seeking to confirm an arbitrator's award issued against Respondent. (Docket Entry 1.) On October 22, 2015, the undersigned referred Trustees' Petition to Judge Tomlinson for an R&R on whether the Petition should be granted. (Docket Entry 6.)

On February 5, 2016, Judge Tomlinson issued her R&R. (Docket Entry 8.) The R&R recommends that the Court confirm the arbitrator's award and that judgment be entered directing Respondent to pay Petitioner \$33,675.57, plus \$275 in attorneys' fees and \$440 in costs, for a total of \$34,390.57. (R&R at 5, 25.) The R&R further recommends that the Court Petitioner's application for pre-judgment interest, without prejudice, and with the right to renew the application within thirty (30) days if counsel is able to provide adequate support for the request. (R&R at 25.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and

recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the “court need only satisfy itself that there is no clear error on the face of the record.” Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Tomlinson’s R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS Judge Tomlinson’s R&R in its entirety.

CONCLUSION

Judge Tomlinson’s R&R (Docket Entry 8) is ADOPTED in its entirety. The Court is directed to enter judgment in favor of Petitioner and against Respondent in the amount of \$33,675.57 plus \$275 in attorneys’ fees and \$440 in costs, for a total of \$34,390.57. Petitioner’s application for pre-judgment interest is DENIED WITHOUT PREJUDICE, however, Petitioner may renew its application for pre-judgment interest within thirty (30) days of the date of this Memorandum & Order.

Petitioner is directed to serve a copy of this Memorandum
& Order on Respondent and file proof of service. The Clerk of the
Court is directed to mark this matter CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: May 4, 2016
Central Islip, New York